



40 CFR Part 52

[EPA-R10-OAR-2020-0648; FRL-8787-02-R10]

Air Plan Approval; AK; Eagle River Second 10-Year PM₁₀ Limited Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the Eagle River, Alaska (AK) limited maintenance plan (LMP) submitted on November 10, 2020, by the Alaska Department of Environmental Conservation (ADEC or “the State”). This plan addresses the second 10-year maintenance period after redesignation for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀). The plan relies upon control measures contained in the first 10-year maintenance plan and the determination that the Eagle River area currently monitors PM₁₀ levels well below the PM₁₀ National Ambient Air Quality Standard (NAAQS or “the standard”). The EPA is approving Alaska’s LMP as meeting Clean Air Act (CAA) requirements.

DATES: This final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2020-0648. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov>, or please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Christi Duboiski, EPA Region 10, 1200

Sixth Avenue (Suite 155), Seattle WA, 98101, at (360) 753-9081, or duboiski.christi@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we” or “our” is used, it refers to the EPA.

I. Background

On November 10, 2020, ADEC submitted to the EPA for approval a second 10-year PM₁₀ LMP for Eagle River. The SIP revision, State effective November 7, 2020, fulfills the second 10-year planning requirement of CAA section 175A(b) to ensure PM₁₀ NAAQS compliance through 2033. The Eagle River area has been meeting the PM₁₀ standard for multiple years and was redesignated to attainment on March 8, 2013 with an approved 10-year PM₁₀ maintenance plan. The area currently monitors PM₁₀ levels well below the PM₁₀ NAAQS.

We proposed to approve the Eagle River second 10-year LMP on September 2, 2021 (86 FR 49278). The reasons for our approval are included in that proposal and will not be restated here. The public comment period for our proposed action closed on October 4, 2021. We received no public comments. Therefore, we are finalizing our action as proposed.

II. Final Action

In this final action, the EPA is approving Alaska’s second 10-year LMP for Eagle River submitted on November 10, 2020, as satisfying the requirements of section 175A of the CAA.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and it will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR

67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 1, 2021.

Michelle L. Pirzadeh,
Acting Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart C—Alaska

2. In § 52.70, the table in paragraph (e) is amended by:

a. Adding entry “II.III.D.2.b. Eagle River Second 10-year PM₁₀ Limited Maintenance Plan” after the entry “II.III.D.2.a. Eagle River PM₁₀ Limited Maintenance Plan”; and

b. Revising the entry “III.III.D.2. Eagle River PM₁₀ Control Plan”.

The addition and revision read as follow:

§ 52.70 Identification of plan.

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(e) * * *

EPA-APPROVED ALASKA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanations
State of Alaska Air Quality Control Plan: Volume II. Analysis of Problems, Control Actions				
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Section III. Areawide Pollutant Control Program				
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II.III.D.2.b. Eagle River Second 10-year PM ₁₀ Limited Maintenance Plan	Eagle River	11/10/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
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State of Alaska Air Quality Control Plan: Volume II. Appendices				
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Section III. Areawide Pollutant Control Program				
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III.III.D.2. Eagle River PM ₁₀ Control Plan	Eagle River	11/10/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
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[FR Doc. 2021-24258 Filed: 11/8/2021 8:45 am; Publication Date: 11/9/2021]